

# Notice of Allowability

Application No.

10/658,314

Examiner

Tatyana Zalukaeva

Applicant(s)

BODART, VINCENT

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/12/2004.
2. ☒ The allowed claim(s) is/are 15-33.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **REASONS FOR ALLOWANCE**

### **Terminal Disclaimer**

1. The terminal disclaimer filed on 10/12/2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,258,906 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### **Allowable Claims**

2. Claims 15-33 are allowed over the prior art of record.

### **Reasons for Allowance**

3. The following is an examiner's statement of reasons for allowance: Terminal Disclaimer filed on 10/12/2004 has overcome ODP rejection over U. S. Patent No. 6,258,906. With regard to the art rejection Examiner has different reasons for allowance than those advanced by Applicant:

Sanchez (U.S. 5,548,046) and Busseret (U.S. 3,849,468) are still closest prior art.

Sanchez discloses a method for making of dialkyl peroxydicarbonate comprising reaction steps as instantly claimed and additional step for a separation of dialkyl peroxydicarbonate by decantation, without the use of a specific extracting solvent that is in turn a plasticizer for PVC.

Extraction with organic solvents is a separation method notoriously used in the field of organic chemistry for fuller separating of organic compounds from the liquid

phase. Thus Busseret discloses a method of continuous preparation of alkylperoxydicarbonates, wherein the method involves the reaction step that is identical to the reaction step of Sanchez. Busseret discloses the use of solvents to extract the alkylperoxydicarbonates, such solvents are dimethyl or dibutyl phthalate (known plasticizer for PVC), esters of fatty acids, such as alkyl adipates.

Decantation and extraction are two known methods equally used for separation and purification of organic compounds, and therefore, the substitution of equivalent methods does not require express motivation, as per *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. V. Linde Air products Co.* 85 USPQ 328 (USSC 1950).

The patentable difference between the process of the instant claims and that of Sanchez is addition of a salt solution to an aqueous phase after the aqueous phase was separated from organic phase, while the instant claims call for adding an inorganic salt to the aqueous reaction *mixture*, i.e. to the crude product.

No other prior art that anticipates or suggests fairly the instant claims has been located as of the date of this Office Action. Therefore, claims 15-33 are allowed over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (571) 272-1115. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tatyana Zalukaeva  
Primary Examiner  
Art Unit 1713



12/02/04